

<p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	<p>Policy Number</p> <p style="text-align: center;">27-18-01</p> <p>Date Filed</p> <p style="text-align: center;">January 12, 2005</p>	<p>Total Pages</p> <p style="text-align: center;">4</p> <p>Effective Date</p> <p style="text-align: center;">May 26, 2005</p>
<p>Authority/References</p> <p>KRS 196.037, 439.342, 439.430, 439.570, 440.450, et seq., 533.050; Gregg v. US, 394 U.S. 489, 895 CT. 1134; AGO 3/17/76 OAG 75/213 P&P ACA Standard 3-3172, 3-3173, 3-3174, 3-3202</p>	<p>Subject</p> <p style="text-align: center;">PROBATION AND PAROLE ISSUANCE OF DETAINER OR WARRANT</p>	

I. DEFINITIONS

As used in this document, the following definitions apply:

“Detainer” means a written instrument issued by the Probation and Parole officer to detain a supervised offender. The detainer shall be based on a violation established either by probable cause or a violation personally witnessed by the officer. This instrument shall be used to confine the supervised offender in a local jail facility pending further action by the releasing authority.

“Local detention facility” means a detention center located in a city or county where an offender may be held in custody pending resolution of his case.

“Preliminary revocation hearing” means a hearing conducted by an Administrative Law Judge that hears sworn testimony and considers documentary evidence for the purpose of determining whether there is probable cause that an offender violated the terms of his parole. This hearing provides factual data to be reviewed by the Parole Board when determining what further action, if any, shall be taken in the case.

“Warrant” means a written instrument issued by the releasing authority which authorizes the detention of an offender.

II. POLICY and PROCEDURE

A. Parolees

An officer may arrest a parolee and lodge him in a local detention facility on a detainer, if there is probable cause to believe the parolee is in violation of the conditions of supervision. (3-3202)

B. Probationers

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The officer may use a detainer on a probationer when the officer sees the offender violate the terms of release; otherwise, the officer shall report any suspected violations to the court for possible issuance of a warrant.

C. Pretrial Diversion

The officer shall secure a warrant, unless expressly authorized by the releasing authority, and shall not use a detainer for detention of a pretrial diversion offender.

D. Sex Offender Conditional Releasees

The officer shall secure a warrant from the releasing authority and shall not use a detainer for detention of a sex offender conditional release.

E. Use of Detainers in Parole Cases

1. Except in case of emergency or extenuating circumstances, when the offender is a danger to himself or another or if he is an absconder, the officer shall discuss the case with the District Supervisor and decide if a detainer shall be placed against the parolee. The detainer shall be completed by the officer and shall contain the following information:

- a. Number of detainer
- b. Date the detainer is issued
- c. Offender's name
- d. Original conviction
- e. Maximum expiration date
- f. Signature of the officer
- g. Date of execution and signature of the person executing the detainer

After the offender is detained, the officer shall immediately notify the District Supervisor or the releasing authority and report this action. The supervision reporting document, which details the events and the actions of the arrest, shall be supplied to the District Supervisor and the releasing authority within three (3) working days.

2. The officer may execute the detainer on the parolee or give the detainer to local law enforcement authorities for execution. It shall be the

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responsibility of the officer to keep himself informed regarding the execution of the detainer. After the detainer is executed, it shall be left with the local detention facility until further disposition of the case or a warrant is issued.

Upon execution of the detainer, the officer shall complete a uniform citation report and distribute it according to directions.

3. When a detainer is executed, the parolee shall be entitled to a preliminary revocation hearing. This hearing shall be scheduled immediately. Refer to CPP 27-19-01.

F. Use of Detainers in Probation Cases and Pretrial Diversion.

1. A detainer may be used on a probationer, without a warrant from the court, if the officer observes the probationer violating a condition of supervision. Upon the issuance of a detainer, the officer shall immediately advise the probating court and request a warrant. The warrant shall be lodged against the offender no later than three (3) working days after the detainer is lodged. When a warrant is issued, it shall replace the detainer, and the detainer shall be removed as the authority for the arrest and placed with the detainer stub. As with all arrests, the officer shall immediately notify the District Supervisor or designee to discuss the detention of the offender.
2. In requesting a warrant from the releasing authority, it is recommended that the officer submit an affidavit supporting the request and a supervision reporting document, which explains the violation. Courts have different processes by which a warrant shall be obtained and the officer shall abide by each court's procedure.
3. If a violation occurs which is not witnessed by the officer, the officer shall either:
 - a. Investigate the alleged violation and submit a supervision reporting document to the court of jurisdiction, documenting the results of the investigation. If appropriate, a recommendation may be made by the officer. The original of the report shall be submitted to the court, a copy shall be retained in the offender's file and a copy shall be sent to the District Supervisor; or
 - b. Request a warrant by submitting an affidavit to the court of jurisdiction or following the local procedure for requesting a warrant

C. Withdrawal of Detainer

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1. In a parole case, the detainer shall remain in effect until such time that a warrant is issued by the releasing authority or a ruling is received from the releasing authority that the offender be returned to active supervision. In a probation case, the detainer shall remain in effect no longer than three (3) days after it is lodged.
2. Upon issuance of a warrant or return of the offender to active supervision by the releasing authority, the previously issued detainer shall be obtained from the local detention facility and stapled to the detainer stub. If a warrant is issued, the warrant shall be read to the offender and left at the local detention facility.
3. When an officer has a parole violation warrant on file against a technical violator and feels that due to the length of time involved the warrant has served its purpose, he may request that the Parole Board consider rescinding the warrant. The officer may make the recommendation by submitting a supervision reporting document to Central Office. Upon receipt, the Parole Board shall be made aware of the request. The Parole Board has final authority in the matter.

D. Warrants

1. Warrants for arrest and detention of offenders should only be issued upon adequate evidence which indicates a probable serious or repeated pattern of violation of conditions and a compelling need for detention pending the revoking authorities initial revocation decision. Detention may be required to prevent injury to an individual or the public, to interrupt a serious continuing violation of conditions, or to assure the presence of the offender at a preliminary hearing when it is determined that the offender would not voluntarily attend. (3-3173)
2. Warrants shall only be issued by the releasing authority. (3-3172)
3. When violation charges are based on the alleged commission of a new crime, a detention warrant is issued only when the offender's presence in in the community would present an unreasonable risk to the public or individual safety. (3-3174)